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Communication strategies of competition authorities as a tool for agency effectiveness

Note by the UNCTAD secretariat

Executive summary

Comprehensive communication strategies are one of the most powerful tools competition authorities possess to establish, maintain and promote competition culture. When used effectively, communication strategies can educate and engage the general public, increase compliance with competition laws, shape policy debates and empower competition authorities. The use of media to carry out advocacy activities is a fundamental aspect of any communication strategy.

This note discusses the importance of general and media advocacy and explores media advocacy activities in detail. Advocacy strategies across key sectors of the media are outlined, and methods of evaluating media advocacy strategies are described. Case studies and descriptive and comparative statistics are presented, based on authorities' responses to a survey distributed by the UNCTAD secretariat.

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I. What is a communication strategy?

1. An effective competition authority may be defined as one that achieves its objectives by using its available resources in the most efficient and appropriate manner. However, a competition authority is only one of many stakeholders in a competition environment, where other government ministries and agencies, the judiciary, the business community, non-governmental organizations and the general public all take action to achieve their own aims. The effectiveness of a competition authority is naturally affected by its place in this complex environment and indeed its effectiveness may be further defined by the manner in which it interacts with and modifies this environment.

2. As such, a well-developed and comprehensive communication strategy is one of the most powerful tools competition authorities possess to establish, maintain and promote competition culture. Experiences of both mature and young competition authorities indicate that a communication strategy, when used effectively, can educate and engage the general public, increase compliance with competition laws, shape policy debates and empower competition authorities.

3. A key element of any communication strategy is the use of media to carry out advocacy activities. Accordingly, this note explores the communication strategies of competition authorities in the context of media advocacy activities. The importance of advocacy is discussed, both briefly in a wider context and in detail in the case of media activities, with particular attention given to the ways in which media advocacy promotes the competition environment. Media advocacy strategies across key sectors of the media are outlined, including press and print, television and radio, and new media. The importance and methods of evaluating media advocacy strategies are also discussed at length. Case studies and descriptive and comparative statistics are presented, based on authorities' responses to a survey distributed by the UNCTAD secretariat. Finally, questions are raised for further discussion on the topic.

4. This note is based on studies undertaken by national and international organizations, academic papers and responses from national competition authorities to the UNCTAD survey.

II. Advocacy as part of a communication strategy

A. What is advocacy?

5. There is no single, all-purpose definition of competition advocacy because competition authorities around the world need to use advocacy to deal with a variety of challenges. Competition advocacy as defined by the International Competition Network (ICN) refers to "those activities conducted by the competition agency related to the promotion of a competitive environment by means of non-enforcement mechanisms, mainly through [its] relationships with other governmental entities and by increasing public awareness of the benefits of competition".[1]

[1] ICN Advocacy Working Group, 2011, ICN Advocacy Toolkit Part I: Advocacy Process and Tools, presented at the Tenth ICN Annual Conference, available at http://www.internationalcompetitionnetwork.org/uploads/library/doc745.pdf (accessed 15 April 2014).

6. Competition advocacy comprises the following: "initiatives undertaken by the competition authority towards other public entities in order to influence the regulatory framework and its implementation in a competition-friendly way [and] all activities by competition authorities aimed at raising the awareness of economic agents, public authorities and the public at large about the benefits of competition to the society as a whole and about the role competition policy can play to promote and protect competition".[2]

B. Why carry out advocacy?

7. Advocacy is carried out on the basis that competition policy is desirable for a number of key reasons. In markets with a sufficient number of competitors (or potential competitors), "free competition is supposed to lead to low prices for the consumers, an efficient use of resources by the producers and maximization of social welfare".[3] As well, in a dynamic setting, competition leads to technological innovations, higher product quality, a wider range of products and improved production efficiency. Finally, "without intervention, some markets may fail to provide minimal levels of services considered of public interest".[4]

8. An argument may be made that the ultimate aim of competition advocacy should be to highlight rent-seeking behaviour by special interest groups, the costs of which may end up being borne by consumers and society as a whole, and that minimizing such behaviour, via public policy, is good for society overall. This view may be more justified in developing and transition countries where the business community, consumers and media have limited experience in identifying, challenging and seeking redress for anti-competitive practices, and where regulatory agencies and the political system have neither a tradition nor an internalized culture of free-market competition. Other justifications for competition advocacy include the existence of a statutory mandate in the constitutive act of a competition authority, such as the publication of educational and awareness programmes for competition and consumer protection and disseminating legislation passed, as well as the attractiveness for competition authorities of ex ante advocacy interventions rather than sanctions.

9. With regard to the latter justification, a number of competition analysts are of the view that advocacy is less controversial than law enforcement. For this reason, they suggest that advocacy should be prioritized in developing countries, whereby the main issue becomes how to improve the effectiveness of competition advocacy initiatives.[5] Simon Evenett outlines the following rationales identified by the ICN for undertaking competition advocacy:

(a) Competition advocacy is complementary to enforcement, by targeting government regulations as well as private sector threats to competition, through measures to eliminate, revise, deter or limit harm to the economy.

(b) Competition advocacy serves to prevent ex ante government intervention in favour of the weak economic agents who would suffer most from a faulty competitive process.

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[2] ICN Advocacy Working Group, 2002, Advocacy and Competition Policy, prepared for the First ICN Conference, available at http://www.internationalcompetitionnetwork.org/uploads/library/doc358.pdf (accessed 15 April 2014).

[3] Ibid.

[4] Ibid.

[5] S Evenett, 2006, Competition Advocacy: Time for a Rethink, *Northwestern Journal of International Law & Business*, 26(3):495–496.

(c) By virtue of the autonomy of a competition authority, competition advocacy may serve to reduce waste that may arise from the influence of special interest groups over the decisions of government regulating agencies.

(d) In young competition regimes, advocacy to the general public is important as a tool for enhancing transparency, which helps to build support.[6]

C. How to carry out advocacy?

10. In practice, the scope of advocacy-related activities may vary widely. For example, a presentation featuring a set of bullet points about basic issues, such as how monopoly harms the public but enriches the monopolist, is a form of advocacy. An extended legal and economic argument in a sectoral regulatory process is also an example of advocacy. Advocacy-related activities can further include testifying, making written submissions or issuing papers to ministries, legislative departments, courts, sectoral regulators or municipalities. In addition, advocacy-related activities can include giving speeches to professional and trade associations, academic institutions and conferences, as well as writing articles for publication in specialized or other journals and developing an articulated strategy for media. Holding press conferences and otherwise publicly explaining the importance and implications of competition and market principles could equally be considered advocacy. A competition authority may also launch initiatives connected to current cases or antitrust concerns, such as thematic campaigns or a dedicated year of competition advocacy.[7]

11. In developing countries without well-established competition regimes, promoting competition principles to the general public is an ongoing task to be given priority not only so that the competition authority may publicize its mandates and assert its visibility, but also as a logical starting point for its overall activities. Ex ante prevention proves more cost-effective than enforcement, especially in the early years of the authority, when the link between lack of awareness and resource paucity may prove to be a vicious circle in which entrenched ways of doing business prevail. Therefore, in the early years of an authority, it would be more productive to begin with advocacy, before gradually introducing enforcement that concentrates on simple cases that are easy to evaluate. Investigation of complicated cases may be deferred until the competition culture and accumulated experience are more conducive to their conduct.[8]

III. Media advocacy

12. The desired result of any media-based communication campaign is the ability of a competition authority to be heard and to exercise influence over the policy environment. By gaining access to the media and framing problems from a public policy perspective, the competition authority can strategically apply pressure to key decision makers in order to change the environment.

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[6] Ibid., 497–500.

[7] M Skrobisz, 2012, The ABCs of advocacy: the basic principles, presented at ICN Advocacy Workshop, available at http://www.autoritedelaconcurrence.fr/doc/bos5_uokik_icn_oct12.pdf (accessed 15 April 2014).

[8] ICN Advocacy Working Group, 2002, Advocacy and Competition Policy, prepared for the First ICN Conference, available at http://www.internationalcompetitionnetwork.org/uploads/library/doc358.pdf (accessed 15 April 2014).

13. Media advocacy involves the use of a wide range of communication strategies to advance competition policy, but not every media advocacy initiative will use every strategy. For example, focus groups and public opinion polls provide intelligence on what people think and may be used to effectively frame issues for specific audiences. Available skill sets and resources may predispose one authority to a particular type of communication, such as paid advertising or creating news. However, competition authorities must remain opportunistic and ready to take advantage of unfolding situations, no matter which combination of communication strategies they employ. At the same time, competition authorities must be wary of attracting media attention for its own sake and should employ a strategy of linking every media action to specific goals and objectives.

14. Every day, there are stories in the news to which competition authorities can link their issues. Indeed, sometimes breaking news can be anticipated. For example, competition authorities around the world know that particular events, such as world competition and consumer days, will generate substantial news coverage. Authorities can plan the release of relevant stories to coincide with such foreseen events, and stories that may be generally newsworthy on any day may become leading news when thus pegged to associated events.

15. Given the prerequisite skills to do so, authorities may wish to take advantage of the many opportunities to create news and help set media and public agendas. For example, the European Commission Directorate General for Competition conducted a study in European Union member States and Switzerland that revealed that consumers in Switzerland pay double the average rate for mobile telephones and Internet access compared to the rest of Europe. The study received widespread national coverage in Switzerland and helped put the issue of national provider Swisscom's monopoly under public scrutiny.

16. The practice of media advocacy also helps a competition authority create a trained group of media advocates and thus builds capacity within the authority for further change. An important goal of media advocacy activities may be to develop, within authority staff, a set of critical skills to complement and enhance existing competition agency and advocacy efforts, in order to pursue economic reform.

A. Role of a media advocacy strategy in promoting a competitive environment

1. Media advocacy helps raise public awareness

17. Media advocacy can help raise public awareness of both the role and actions of a competition authority, as well as the benefits of addressing anti-competitive behaviours. Stating and explaining the merits of a competitive environment in common language may help the general public to better relate to competition policy objectives. As well, the harm that anti-competitive behaviour may impose on people's livelihoods, for instance in terms of higher prices for basic goods and services, can be easily explained via a number of media, such as in newspaper articles and television and radio discussions, and on social media. In this way, media advocacy can provide the public with an idea of fairness, but also the ways and means for reporting violations and seeking justice. Further, if the benefits of a competition authority's actions are seen in the media, the public (as well as many other stakeholders) will gain a better understanding of the role competition policy plays.

18. Each of these media can be used to target specific audiences and highlight relevant issues in selected national markets. If the stories relate to issues such as wages, goods and the provision of basic services, they are likely to arouse interest across many levels of society. In this way, competition advocacy serves to popularize competition culture in public opinion and may also act as a source of political support. For example, the

popularization of competition issues directly linked to livelihoods may trigger action by consumer associations or trade unions, to pressure for a redress of unfair pricing policies.

19. Many of the respondents to the survey distributed by the UNCTAD secretariat indicated that they carry out promotional media activities to enhance the visibility of the competition authority as an effective institution in terms of policy influence and law enforcement. For instance in Latin America, the Fiscalía Nacional Económica in Chile, the Superintendencia de Industria y Comercio in Colombia and the Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual in Peru are notable examples of institutions endowed with adequate autonomy and resources to effectively engage in advocacy campaigns to support and publicize their activities, utilizing different media such as the press, television and social networks.

2. Media advocacy influences the behaviour of business communities

20. As a public education tool, media advocacy has the merit of enhancing, inter alia, an a priori understanding of competition law. Media campaigns may be used to specifically target business communities, highlighting relevant issues such as abuses of dominance, cartelization and sanctions and associated leniency schemes for informers. Such campaigns may expose risks taken by offenders, contribute to improving compliance rates and incentivize participation in leniency schemes. Business-targeted media advocacy activities may be particularly important in developing or transitional economies, which may lack an established competition culture or business community with the requisite legal or technical knowledge to take preventive measures against anti-competitive practices. Furthermore, if media advocacy activities highlight the results of cases of non-compliance with competition laws, the relevant business community will be more likely to conform to competition laws.

3. Media advocacy influences the behaviour of policy makers

21. Mass media, particularly news media, plays an important role in advancing democratic discussion of policy issues. Media can often effectively set the public agenda for an issue and establish discussion boundaries. In mediated democracy, public policy battles are fought not only in the legislature but on the evening news and the front pages, over the Internet and across radio waves. Mediated information can reinforce the status quo or advance policy goals of economic reform and a competitive market. Mass media, especially news media, can amplify voices so that policymakers cannot ignore them.

4. Interaction between competition advocates, media and the polity

22. The impact of media advocacy on competition awareness and decision-making is expected to be a positive one in theory. However, this impact may be tempered by the political environment in which markets operate, including the media market itself. That is, if freedom of the press and political competition are both relatively limited, there is a high probability that the press may be subject to political interference. In such an environment, the impact of the competition authority on the course of policy through media advocacy would be lessened.

23. Another related factor is the types of obstacles that competition advocacy may encounter in certain sectors, particularly in jurisdictions where competition culture is less well entrenched. Following a survey conducted in 2002, the ICN reported that "responsible agencies in privatization processes or regulatory reform may seek among others, to maximize governmental income, protect particular social groups, foster investment by granting a certain degree of protection, attend [to] environmental or labour concerns, as

well as the preservation of sector specific interests that gain support from politicians, and may thus be reluctant to give priority to competition related recommendations".[9]

5. The use of media as a tool to detect anti-competitive practices

24. The majority of the authorities that responded to the UNCTAD survey indicated that they monitor the media for signs of anti-competitive practices. To carry out this task, most authorities (e.g. in Bulgaria, Croatia and the Czech Republic) have dedicated personnel or offices, which produce reviews (e.g. in Switzerland) and reports (e.g. in Bosnia and Herzegovina) or update internal information systems with their findings (e.g. in Poland). For example, the Competition Authority in Norway actively monitors the media through an automated search engine, using selected keywords and phrases, and in doing so has detected possible competition problems in specific markets and failures to notify regarding mergers and acquisitions.

25. Many of the respondents (e.g. Croatia, Germany, the Republic of Moldova, Serbia and Spain) noted that media information cannot be considered direct evidence in the legal system, but that it may be mentioned as a source of investigation. Often, media information is only used as an initial circumstantial indication to investigate a matter in order to find further evidence. The party presenting such information as evidence would have to prove its statements using other more reliable types of evidence.

26. In other jurisdictions (e.g. Poland, Sweden and Switzerland) the principle of free assessment of evidence is applied, meaning that, in principle, there are no restrictions on sources of evidence and that, in some cases, there are no rules that specify the weights of different types of evidence. However, many respondents from jurisdictions where media information is considered before the courts emphasized the need to rigorously establish the validity of such evidence or to provide corroborating evidence or other more substantial types of evidence. For example, the European Union will normally seek confirmation of media-obtained information directly from the source, using its regular investigatory tools. In the London Interbank Offered Rate case, for instance, the European Commission took into account publicly available information in the press. In a number of cases, the quality of media-based evidence is primarily assessed either by the authority (e.g. in Germany), an independent committee (e.g. in Sweden) or the court itself (e.g. in the Czech Republic). Outlined below are some of the case studies highlighted by survey respondents:

(a) **Czech Republic**. In one instance, poultry producers were convicted of competition distortion for agreeing on a joint price-setting strategy. Evidence included a recording made by a television channel during a meeting of poultry producers.

(b) **Denmark**. After a sales manager of a company explained to a television interviewer how companies use resale price maintenance, the ensuing case resulted in a fine of DKr 1,000,000 against the company. In another case, against potato producers, part of the evidence presented by the public prosecutor consisted of television programmes during which the producers had discussed future potato prices and their trade organization's chair had encouraged members to raise prices and limit potato production.

(c) **Norway**. In a case where two asphalt companies were fined for bid rigging, a nine-minute news story on the national broadcast network was included as a case reference, but not used as stand-alone evidence.

[9] Ibid.

(d) **Poland**. The Office of Competition and Consumer Protection has instituted proceedings in numerous cases based on media reports, including cases related to collusion on the waste market,[10] bid rigging in Wrocław[11] and broadcasting of football matches.[12]

(e) **Republic of Moldova**. The State has initiated several investigations based on media articles. In one case, the judge accepted media-based evidence in order to prosecute several companies acting to simultaneously fix prices for the retail distribution of oil.

(f) **Russian Federation**. The Federal Antimonopoly Service recently issued a notice of prohibition of activity, which may lead to declaration of a violation of a competition law, on the basis of a public proclamation made by the director general of a company (also published on the company's website), concerning the company's planning behaviour on the market.

(g) **Serbia**. The Commission for Protection of Competition has issued warnings or initiated the following cases using information obtained from various media sources: (i) using information obtained from a newspaper on the behaviour of milk producers, a procedure was initiated that ended with a decision against the largest milk producer for abusing its dominant position; (ii) after a journalist questioned a local city authority's decision regarding unique prices for taxi services for each taxi driver, a procedure was initiated; and (iii) action was taken after a newspaper reported a merger that had been completed without prior notification.

(h) **Spain**. In one case, the Comisión Nacional de la Competencia opened formal proceedings against the Spanish Association of Frozen Dough Makers (ASEMAC) after its President made statements to the press, including on pricing recommendations, that implied violations of competition law. In another case, the Comisión Nacional de la Competencia became aware through press reports of statements made by the Chair of the Tourism Board of the Confederation of Employers and Industries of Spain (CEOE) in relation to recommended price increases by hoteliers. The Comisión took into consideration the circumstances surrounding the statements, including the specific audience, position of the speaker in the sector and reaction of the sector. After investigation, the Confederation was fined €150,000.

(i) **Switzerland**. The editorial office of a television broadcast for consumers transmitted a letter containing an automaker's statement concerning the importation of commercial vehicles from Germany to Switzerland to the secretariat of the competition authority, and the authority used this letter as one of several forms of evidence in a subsequent case.

27. In the next chapter, some media types through which advocacy strategies may be effective are outlined and further case studies from survey responses are provided.

[10] Poland, Office of Competition and Consumer Protection, 2009, available at uokik.gov.pl/news.php?news_id=1081 (accessed 15 April 2014).

[11] Poland, Office of Competition and Consumer Protection, 2013, available at uokik.gov.pl/news.php?news_id=10746 (accessed 15 April 2014).

[12] Poland, Office of Competition and Consumer Protection, 2013, available at uokik.gov.pl/news.php?news_id=10571 (accessed 15 April 2014).

B. Types of media

1. Press and print

28. Press releases, interviews, conferences and print media are most often used to advocate to the public the merits of fewer regulatory choices in enhancing competition, raise awareness about an issue that is high on the agenda of a competition authority, publicize an important case of a competition authority's law enforcement activities as a way of educating the public or inform the business community about certain legal requirements, such as those concerning business acquisitions.

29. All authorities that responded to the UNCTAD survey indicated that they make use of press releases to mark events, as outlined above, and this method may be highly effective in raising awareness. For instance, the competition authority in Morocco has carried out a dozen industry studies on competition since 2009 and, on launching a report, holds a press conference to which representatives from a variety of media sources are invited, in order to ensure a wide dissemination of results. In one case, public debates ensued on a dysfunctional compensation system governing the prices of regulated goods and services, which ultimately led to a process of government-backed reform.

30. A news or press release may often be the best way to get a message across and, in order for such releases to be most effective, authorities should cultivate productive relationships with the press and relevant individual journalists. Authorities should regard themselves as sources for stories for which they have the necessary expertise, credibility and reliability, as well as timely information and broad knowledge of related issues. In Zambia, for example, authority staff have published articles in two national daily newspapers outlining the authority's mandate and the role of competition and consumer protection. Feedback has been positive, with consumers bringing complaints to the attention of the authority. In the United States of America, after advances in technology led to the use of digital dispatching applications on smartphones to bypass dispatchers when calling and paying for taxis, the Federal Trade Commission began an advocacy effort to encourage local regulatory agencies in the taxi business to avoid unwarranted regulatory restrictions on competition. Responding to rules set by local and State regulatory agencies, aimed at limiting the types of vehicles available and the ability for drivers to use smartphone applications, Commission staff made comments via press releases that emphasized the benefit to consumers of competition between traditional and new methods of delivering services. A major newspaper printed an op-ed piece by a commissioner that questioned the proposed regulations and the Director of the Commission's Office of Policy Planning was invited to give a keynote address at the annual meeting of an industry group of regulators, which was covered by representatives from industry-focused news media, in order to explain the Commission's position.

31. In some cases, it may be appropriate to issue feedback to journalists that can constructively highlight key information that may have been excluded from published stories and to provide background materials or suggest alternative or follow-up stories. For example, in order to maintain the interest of journalists on issues related to competition, the Office of Competition and Consumer Protection in Poland organizes annual competitions and presents awards for the best newspaper articles, radio broadcasts and television programmes in the field of competition and consumer protection.

32. It is important, however, to recall that journalists' goals may differ from those of a competition authority, and that this holds true across all media types. Indeed, it may be very difficult for authorities to have constructive relationships with the press, as standards of openness, fairness and transparency of the press vary greatly across countries. Outlined below are further case studies highlighted by survey respondents:

(a) **Brazil**. As competition culture in the State is relatively young, the Administrative Council for Economic Defence (CADE) used the occasion of its fiftieth anniversary to hold a series of advocacy events for Brazilian stakeholders, including publication of a book concerning the evolution of competition in Brazil, educational campaigns to highlight the importance of public policies to protect the competitive environment and the relaunch of the *Brazilian Competition Journal*. Related advertising campaigns were launched, which included the production of graphic material, publication of advertisements in major newspapers and national magazines and the launch of business-linked websites.

(b) **Bulgaria**. The Commission on Protection of Competition, observing the principle of transparency, provides ongoing information about its activities to the general public and mass media. Press releases are issued for some of the decisions adopted by the Commission, published on the Commission's official website and sent by e-mail to all major national media, including daily and weekly newspapers, magazines, television and radio channels and news agencies.

(c) **Chile**. The State's main competition policy centre was commissioned to undertake a study to evaluate the risk of trade associations in the State and concluded that there was no doubt that trade and business associations were common instruments for collusive behaviour and they often facilitated practices that increased implicit coordination among competitors, leading to less competition. Following the study, the first draft of what would become Asociaciones Gremiales y Libre Competencia, Advocacy Material Number Two, of the Fiscalía Nacional Económica was published and subjected to a public consultation process. In the National Economic Prosecutor's advocacy materials, some guidelines and recommendations on compliance with competition rules were established for business association partners. In a hostile environment, the draft generated much discussion, which continued after final publication. The authority coordinated several activities for the presentation and discussion of this material, including press conferences and seminars. Subsequently, the Prosecutor filed complaints before the Competition Tribunal against different trade associations, the largest against three poultry producers colluding in chicken meat sales to major supermarkets. Anti-trust guidelines within industries have begun to develop as a result of these advocacy efforts, requiring trade associations, such as the Chamber of Construction and the Mining Council of Chile, to conform to competition principles. Similarly, three important actors in the Chilean economy, the non-governmental organization Generación Empresarial Foundation (an entity comprised of senior managers from various companies, whose role is to oversee business ethics), Confederation of Production and Commerce, and the newspaper that had been most critical of the Prosecutor in the past, together published competition guidelines.

(d) **Croatia**. The competition authority issues an e-mail newsletter every month highlighting its activities, including important decisions made by the authority's council, new legislative changes, news of anti-trust and State aid activities, plans for future work and notices of important anti-trust and State aid cases in the European Union and worldwide. Press releases, coordinated with a specialized public relations expert, are issued for some of the decisions adopted by the authority.

(e) **Mauritius**. The competition authority has previously organized a competition week, during which the authority distributed desk calendars with cartoons depicting the ill effects of cartels and monopolies, while emphasizing the benefits of its leniency programme. These calendars reinforced, on a daily basis, the need to denounce restrictive business practices. The feedback received was very positive, especially from small and medium enterprises.

(f) **Papua New Guinea**. The competition authority has distributed pamphlets to companies considering business acquisitions, explaining the importance of applying for authorization and the associated procedures.

(g) **Poland**. The Office of Competition and Consumer Protection held a nationwide educational campaign targeted at professional market participants to raise awareness of anti-competitive agreements. The project began with a conference held in cooperation with the University of Wrocław, and a series of videos, radio broadcasts and newspaper articles were made available on the Office's website.

2. Television and radio

33. The demands of media advocacy through television and radio are quite different from those of print media.

34. One of the key differences is that the costs of television productions are much greater, so much so that this may be an insurmountable obstacle for smaller authorities. However, for authorities that can afford the costs there exist a number of advantages, including the fact that in many cases, there is no need to relay the message through a third party such as a print journalist. Also, in paying for exposure, the message of the authority is presented in the manner, at the time and to the target audience of the authority's choosing. Not all paid advertising or content may be prohibitively expensive; radio can be a relatively inexpensive way to communicate with a target audience or organization.

35. Another key difference is the time available. Television and radio journalists have very little time to present a story. Typically, television stories run between ninety seconds and three minutes and radio news items last between thirty and sixty seconds. As noted in chapter III, it is therefore important for authorities to maximize the effectiveness of their advocacy measures in this medium, preferably by pegging stories to wider events or issues. In this way, a story can be expanded to help advance the desired issue locally and nationally. Three case studies highlighted by survey respondents are outlined below.

(a) **Papua New Guinea**. The national television network has signed memorandums of understanding with the competition authority and customs concerning the ban on importing and selling hazardous products. Events and actions related to this prohibition are televised in order to show the authority's interest in addressing consumer protection issues. The authority also uses television and radio to showcase its role and function to a wider audience, both literate and illiterate. Authority staff give an overview of their work areas and answer questions on air. Consumers may freely express their views and anonymously report suspected breaches of the Independent Consumer and Competition Commission Act to the authority.

(b) **Poland**. A leniency campaign held by the Office of Competition and Consumer Protection disseminated knowledge on competition protection to entrepreneurs. Television spots promoting the leniency programme were broadcast nationwide, with a focus on business issues channels. The Office President sent information on the programme to the five hundred largest enterprises and the Office provided a special helpline through which participants in a prohibited agreement could anonymously obtain information on the programme and familiarize themselves with the procedures for applying for leniency. A subsequent campaign was launched as a consequence of an increased number of proceedings in concentration cases and insufficient knowledge of competition law in this area. Entrepreneurs were provided with a procedure for notifying their intent to concentrate and the negative impact concentrations may have on the market was clarified. The campaign consisted of a 10-episode series of television and radio programmes on concentration control, supported by resources on the Office website explaining the concentration procedure, including access to the series, the debate that launched

the campaign, and a frequently asked questions page. Interested undertakings could reach the Office via the campaign information line or e-mail address. In addition to these initiatives, the Office sent relevant materials to businesses and organizations, including guidance on the concentration procedure and a document on the market analysis conducted by the Office in cooperation with business.

(c) **Zambia**. The competition authority has used television and radio to hold public awareness campaigns regarding unfair trading practices and consumer rights and obligations in dealing with traders. Authority staff have been interviewed on both public and community television question-and-answer programmes and the public engagement and feedback received by the authority has greatly increased as a result.

3. New media

36. The world wide web is increasingly used as a way to store and update information regarding competition authorities, as social media sites such as Facebook and Twitter are used to obtain feedback from the public regarding ongoing news or hot issues. The UNCTAD survey makes clear that both developed and developing countries use social media to reach a wider audience and achieve two-way communication. Some survey respondents, such as Croatia, stated that they regard their presence on certain new media sites as their most efficient media tool to promote their competition authority's advocacy activities. Outlined below are related case studies highlighted by survey respondents:

(a) **Bulgaria**. The Commission on Protection of Competition website contains detailed information and explanations of Commission functions and activities, such as adopted decisions, annual reports and guidelines concerning different aspects of application of competition law. For instance, following a leniency programme presented as an interactive stage play at a seminar for businesses, a video recording was posted on the website.

(b) **Canada**. On the occasion of its second annual "2 Good 2 B True Day", the Competition Bureau hosted a Twitter chat focused on the two most prevalent scams. As part of Fraud Prevention Month, this social media event was presented in partnership with the Fraud Prevention Forum, for which the Competition Bureau is chair.

(c) **Egypt**. The competition authority uses social media extensively to reach the public, aiming to increase transparency and build trust. Its Facebook page hosts news and educational materials, including booklets, frequently asked questions and comics, and provides a forum for public discussions. High usage statistics demonstrate the importance of investing in social media to maintain visibility and raise public understanding of relevant issues.

(d) **Norway**. The Competition Authority participated in public debates concerning the creation of a designated law securing fixed prices on books, with the objective of preventing this law from coming into force. Through broadcast of the Authority's opinion via strategically placed media spots before the due date for submitting evidence to the hearing and placement of supporting material on its website, the Authority's view set the agenda for discussions and was the favoured participant in debates and interviews. Although the law was adopted, the Authority's opinion still remains in the public debate.

(e) **Russian Federation**. The Federal Antimonopoly Service website has been designed to present the most recent proceedings and decisions and the main competition advocacy initiatives, as well as comments made in the media on authority actions. The Service supports one website devoted to tenders for the development of State property and a separate anti-cartel website that provides information on the nature of cartels, the threats they pose and how citizens can contribute to disclosures. The Service also has a social

media presence on Facebook and Twitter, where new releases are posted and comments and feedback solicited from the general public on the authority's work. In 2010, a dedicated Facebook page called FAS-book was launched, to serve as an effective group communication with representatives of the competition authority in an informal setting. In practice, these social networks are becoming a virtual alternative for the reception rooms used by the Service, where complaints are filed, proposals made and public discussions carried out.

(f) **United States**. The Federal Trade Commission publishes online a series of illustrated dialogues aimed at older children explaining and illustrating real life applications of competition and consumer protection principles in the form of an interactive trip through a shopping mall. The following topics are covered: advertisements, security, modelling frauds, deceptive jobs, miracle projects, lotteries and competitions, competition, supply and demand, mergers and history of American competition law. Another visual aid that is often used in training sessions on competition advocacy is a video devoted to the first successfully completed international cartel case of the American competition authority for price fixing of the animal feed additive lysine, which led to sanctions and three prison sentences.[13]

(g) **United Kingdom of Great Britain and Northern Ireland**. The Office of Fair Trading[14] had a Twitter account administered by an intra-institutional group representing all employees of the Office. The Office tweeted approximately once per day, including invitations for feedback on certain issues undergoing consultations by the Office and messages regarding new authority information online, such as news, publications, YouTube videos, speeches and campaigns. The Office was unable to provide individual replies. However, all suggestions and new topics received from Twitter users were disseminated to the respective Office employees.

IV. Measuring the effects of a media-based communication strategy

37. Measuring the effectiveness of any media-based communication campaign may not always be a simple process. Media advocacy can be a key part of an overall strategy but does not stand alone and is not a complete strategy in itself. As well, media should be used as an advocacy tool only in the context of other approaches, such as law enforcement, coalition building and policy advocacy. The complexities of each economic and political landscape make isolating media advocacy's contribution difficult; policy battles can take years and include contributions from various stakeholders. At a simple level, authorities may wish to track the basic outcomes associated with a chosen issue, including whether the issue was on the public agenda, awareness of the issue was raised and advocacy put pressure on and mobilized key decision makers, as well as whether the policy was enacted or the intended change occurred.

38. There are a number of measures that may be used to assess the outcomes of media advocacy activities. For instance, the degree to which an issue appeared on the media agenda can be measured by the amount of coverage generated, while the placement of the coverage and whether the issue was framed from a public policy perspective can be

[13] Federal Trade Commission, 2009, Lysine Cartel, available at http://www.youtube.com/watch?v=wDH0Rv8R0SQ (accessed 15 April 2014).

[14] The Office of Fair Trading closed on 31 March 2014 after the UNCTAD survey was conducted, and its work has passed to a number of different bodies.

assessed through a content analysis. Whether media coverage advanced policy can be assessed by, for example, monitoring the progress of legislation and interviews with key advocates and decision makers. Evaluators can examine key documents, such as minutes of parliamentary or local council meetings, and conduct interviews with decision makers or journalists to help determine whether media coverage successfully applied pressure that helped mobilize action. Stakeholder polling is often an effective way to ascertain whether the issue reached prominence among certain groups, although polling on a large-scale basis can be costly and may not be an option for smaller authorities.

39. Despite the difficulties associated with media advocacy evaluation, it is important that authorities carry out this process. As authorities often have limited budgets and resources, it is important for media advocacy activities to be as effective as possible, both in terms of impact and cost. As outlined in the previous chapters in this note, this is especially important in jurisdictions within developing countries. For example, the competition authority in Mauritius embarked on a nationwide media advocacy campaign that included simultaneous advertising through radio, on billboards and in the press. At the end of the campaign, the authority noted a substantial increase in feedback and complaints by the public, but many did not fall under the competition act and often concerned consumer protection issues instead.

40. It is also important for the evaluation process to highlight media advocacy as a key part of an overall strategy and to note that it does not stand alone. The effectiveness of media advocacy may be limited by constraints within other operational areas of the authority. For example, Indonesian news coverage indicates that the Commission for the Supervision of Business Competition is effective in framing messages and speaking directly to targets. One major Jakarta newspaper provides front-page coverage, and local television news runs related stories used as teasers for main programmes. However, the Commission does not have the capacity to follow up on attention generated by widespread media coverage. Therefore, valuable opportunities for advancing public policy may be lost.

41. In response to the UNCTAD survey, a number of institutions (e.g. in Serbia), stated that they did not currently carry out evaluations of the effectiveness of media-based advocacy activities, while others (e.g. the European Union) noted that they did not have specific techniques for evaluating the effectiveness of media-based advocacy activities and still others (e.g. Malta) only evaluated media coverage following specific events.

42. A number of competition authorities (e.g. in Jordan, Malaysia, Mauritius and Morocco) keep records of the number of complaints they receive and assess the impact of advocacy. Some respondents (e.g. Botswana, Chile, Egypt and Indonesia) indicated that they have conducted wide-ranging surveys of perceptions of the effectiveness of the authority, including on the usefulness of previously published studies and guides. In order to evaluate their media advocacy activities, some authorities (e.g. in Guyana and Spain) rely on feedback received through close relationships with key stakeholders and constituents, such as in public administration, the private sector, academia, law firms and the press and among consumers, while others (e.g. in Suriname) take measures through levels of interaction and responses from activity participants or website usage. Some authorities (e.g. Serbia) expressed their intentions to put in place the relevant mechanisms for evaluation. Two further examples are as follows:

(a) **Denmark**. The Danish Competition and Consumer Authority evaluated the effect of a 2013 campaign on the introduction of imprisonment in cartel cases, asking a number of competition lawyers and members of trade organizations whether the campaign resulted in better awareness of the competition rules. All respondents answered positively.

(b) **United Kingdom**. The Office of Fair Trading evaluated competition advocacy interventions on the basis of a specifically designed methodology. Part of the

impact was measured quantitatively through the effect of competition advocacy on prices. Due to the fact that regulation could lead to an increase in prices, the price in conditions of anti-competitive regulation and the price in conditions of competitive regulation were compared, as well as the price in conditions where there was a lack of any regulation. The benefits for consumers could be summarized in two main areas: lower prices and increased consumption as a result of lower prices. For a precise calculation of the effect, information was needed about the elasticity of demand in order to determine what the decrease in consumption would be if prices were increased. Outcomes of competition advocacy were also reflected in non-price effects, such as improved product qualities or delivery processes, but were more difficult to measure.

43. Many other respondents indicated that they take a more formal approach to evaluation. The authorities in both Brazil and the Czech Republic, for instance, have specialized units for evaluating the effectiveness of media-based advocacy activities, and the Czech Republic employs a specialized company to conduct an annual analysis of media coverage of the authority and its activities. In Colombia, the authority works with an advertising agency that reports on the coverage of its media advocacy campaigns and also has a media company that provides monthly updates and saves resources through the use of free press. All measurement tools are reported to senior management and allow for improved decision-making. The Public Relations Department of the Federal Antimonopoly Service of the Russian Federation monitors mass media on a daily basis for mentions of the Service, citing the importance of knowing public reaction to any message, case decision or suggestion on the development of product markets made by the authority. The Swedish Competition Authority also compiles media and business intelligence on a daily basis, and the Director General is provided with weekly presentations that assess, both qualitatively and to some extent quantitatively, the media impact of activities. The Authority places special emphasis on editorial and opinion articles or statements by politicians and leading figures within trade unions and organizations. Two further case studies are as follows:

(a) **Poland**. The Office of Competition and Consumer Protection evaluates the effectiveness of its activities by monitoring statistics via the world wide web and data concerning website visits, following the numbers of press releases on a given issue and, in certain cases, by commissioning social research, such as to learn the extent of knowledge among undertakings in Poland of the leniency programme, of competition law and of the principles of granting State aid.

(b) **Ukraine**. The press office of the Antimonopoly Committee uses an e-mail sender to distribute news highlighted on the official website to newspapers, magazines, other print media, television and radio stations, news agencies, non-governmental organizations and associations whose activities are connected with the Committee, and regional, district and local media, in order to reach the widest possible audience.

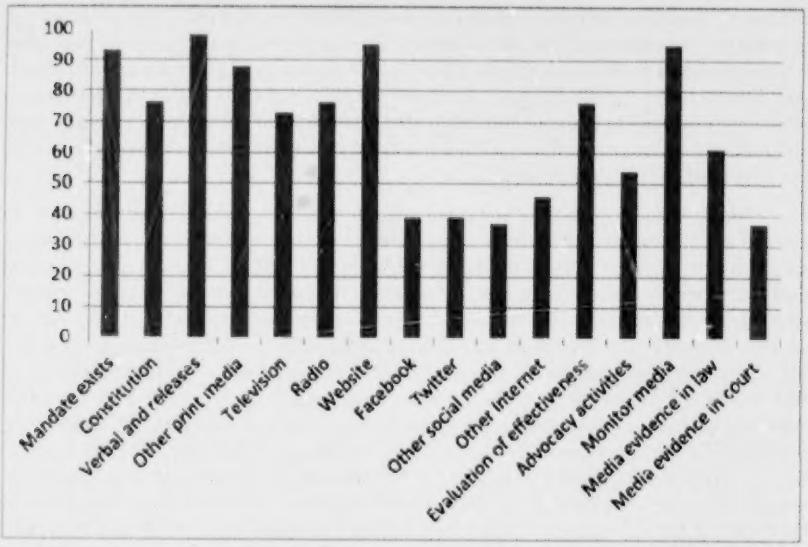
44. The types of monitoring in the case studies above allow for authorities to take into account the opinion of mass media and business and keep a close watch on negative publications in mass media and react accordingly.

V. UNCTAD survey on practices in competition advocacy and the media

45. This chapter presents a brief summary of the 43 responses received from competition authorities to the UNCTAD survey.

46. Figure 1 demonstrates that on average over 90 per cent of respondents have an advocacy mandate, use press conferences and releases for communication via media, host a website for advocacy and monitor media to detect breaches of competition law.

Figure 1
Competition advocacy and the media
(Percentage of positive responses)



Note: Mandate exists refers to authorities that have a mandate on advocacy; Constitution refers to authorities that have a mandate enshrined in their constitution; Verbal and releases refers to authorities that use interviews, press releases and conferences; Other print media refers to authorities that use other print media; Television, Radio, Website, Facebook, Twitter and Other social media refer to whether authorities use such media as part of a communication strategy; Other Internet refers to authorities that use other web-based sources; Evaluation of effectiveness refers to authorities that evaluate the effectiveness of their advocacy activities; Monitor media refers to authorities that monitor media for breaches of competition law; Media evidence in law refers to authorities whose jurisdictions' laws permit the use of evidence found in the media; and Media evidence in court refers to authorities that have used evidence found in the media in court.

47. A significant majority of respondents (70–80 per cent) have a constitutional mandate for advocacy, use television and radio for advocacy campaigns and have mechanisms for evaluating media advocacy activities. Social media are less widely employed; 30–40 per cent of competition authorities use social media including Facebook, Twitter and other sites. In approximately two-thirds of jurisdictions (60 per cent) the law allows for the use of evidence found in the media and around one-third of respondents (37 per cent) have used media evidence in court proceedings.

48. Approximately half of the respondents (53 per cent) were aware of their budget allocations for advocacy activities and on average, this allocation is relatively low, with a median of 3.7 per cent for overall advocacy and a median of 1.2 per cent specifically for media advocacy activities. There is large regional variation in the median budget share dedicated to advocacy: 3 per cent in Africa, 8 per cent in South and Central America, and 5.5 per cent in States of the Organization for Economic Cooperation and Development. Little variation was exhibited in budget allocations for media-based advocacy; the median of reported shares was below 1.5 per cent in the four reporting regions.

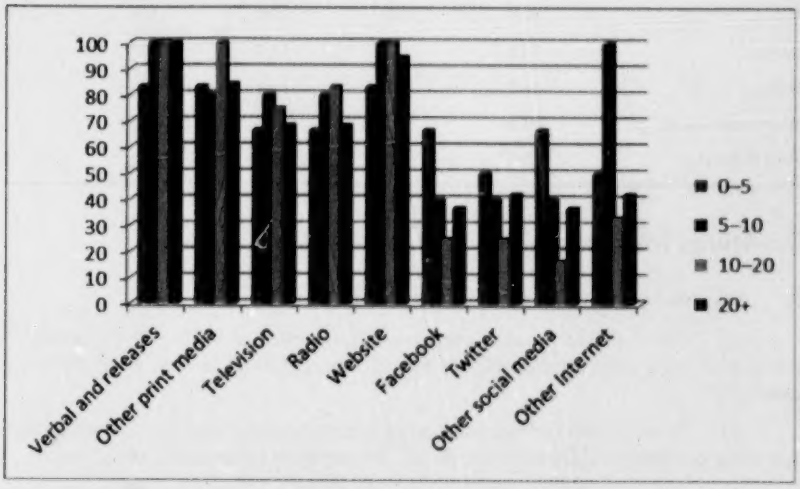
49. Figure 2 shows that concerning "old" media and website use, all competition authorities follow a similar pattern, regardless of age: more than 80 per cent use press and print media and host a website, while 65–80 per cent utilize television and radio for campaigns. However, in terms of social media, 50–65 per cent of young agency

respondents indicated use of Facebook, Twitter or other social media sites. This was far in excess of positive responses from older and mature authorities and may indicate that social media use is more appealing for younger authorities, which may be under pressure both to rapidly increase authority recognition and to secure resources as and efficiently and cost-effectively as possible. Interestingly, there appears to be a relative lack of use of social media (10–30 per cent) by maturing authorities (10–20 years) in comparison to both older and younger authorities.

Figure 2

Use of media advocacy by authority age

(Percentage by authority age)



50. The table below shows the regional profile of respondents with respect to the use of media for advocacy. It may be seen that press activities and television are used by almost all authorities, regardless of region. Radio is highly used in Asia and the Pacific (100 per cent), Africa (88.9 per cent) and Western Europe and North America (75 per cent), but much less among transition economies of Europe and Central and South America (58.3 per cent and 62.5 per cent respectively). Regarding social media, authority usage rates are largely significantly lower than 40 per cent, with the exception of respondents from Africa who widely use Facebook (77.8 per cent) and Twitter (66.7 per cent). This may support the suggestion that new social media could become an alternative to more expensive traditional media in terms of coverage and access, particularly among young or less endowed authorities.

Relative use of media for advocacy by region

	Africa	*Central and South America*	*Asia and the Pacific*	*Transition economies of Europe*	*Western Europe and North America*
Interviews, press releases, conferences	88.9	100	100	100	100
Other print media	66.7	100	100	83.3	87.5
Television	88.9	100	100	100	100
Radio	88.9	62.5	100	58.3	75
Website	88.9	100	100	100	87.5
Facebook	77.8	25	33.3	16.7	37.5
Twitter	66.7	25	16.7	33.3	37.5
Other social media	44.4	25	50	25	37.5
Other Internet	55.6	50	33.3	25	75

VI. Questions for discussion

51. Suggested questions for discussion include the following:

(a) How should young competition authorities develop media advocacy strategies? Should criteria be established to prioritize sectors of interest when allocating resources?

(b) What lessons can late adopters of competition law learn from countries with established competition cultures? What should the adaptation process take into account?

(c) What capacity-building assistance should be given to stakeholders for effective media advocacy?

(d) Where media and political freedom is an issue, how should competition advocacy be handled?

(e) What would be the best modalities of international cooperation in advocacy in general and with respect to media in particular?